

Regulatory Framework

Smart Growth places apartments and homes, schools and churches, stores and restaurants together in small clusters, requiring a new approach to land use regulation, one that produces codes that are more manageable and less exclusionary, allowing us to create places that are more diverse, sociable and reflective of modern life and economy.

Smart Growth provides model codes that visually illustrate building and zoning guidelines, pairing concise text with simple drawings that are readily understood.

Case examples

- The city of Tacoma, Washington, “de-zoned” its downtown, wanting to reflect the investments it was making in light rail and other public improvements. The existing code that governed the downtown was a patchwork of districts, including special districts and overlay districts. The accompanying zoning map was nearly impossible to read and the accompanying text was equally dense, with page after page of text, references to other planning documents, lists of permitted uses and inconsistent design standards.

The code was completely revised, establishing just four districts. Each district has a different emphasis but all are mixed use. The essential development standards were kept to a minimum: FAR, building height, and parking ratios, and everything was placed in a single table for legibility. A short list of basic design standards was established for all districts. The design standards and guidelines were incorporated into the code itself, and documents were carefully worded to educe the need for interpretation. The entire land-use code fit on nine pages. Adding sign regulations and downtown policies brought the entire plan for downtown development into less than 20 pages. (For more information, e-mail: design@lmnarchitects.com)

- Minnesota developed comprehensive model ordinances for sustainable development as part of the state’s smart growth plan. Communities can adapt the sample ordinances as part of a citizen-based planning process. The ordinances fully address elements that are essential to smart growth: citizen participation, growth management, managing community resources, neighborhood design, infrastructure, resource-efficient buildings and economic development. The ordinances emphasize sustainability. For example, infrastructure ordinances note:

“public facilities shall be deemed to be adequate if it is demonstrated that they have available capacity to accommodate the demand generated by the proposed development.”

Communities are required to calculate capacity for each public facility within an impact area. For more information, go to <http://www.mnplan.state.us/SDI/ordinances.html>

- As part of its state-wide Smart Growth program, Maryland is developing “Smart Codes” in two comprehensive initiatives:
 1. The Maryland Building Rehabilitation Code Program integrates into one document the 10 codes that currently govern construction work on existing buildings.
 2. The Models and Guidelines for Infill Development ordinance (currently in draft) encourages the adoption of infill programs by offering incentives to local governments to adopt and implement infill programs.

Qualifying local programs will be required to contain comprehensive plans and policies for infill through the inclusion of the following elements: zoning that encourages infill development on vacant, abandoned, passed over or underutilized land within built-up jurisdictions; zoning tools that require connectivity of infill of surrounding streets and open spaces; zoning that maintains or increases density and that allows a mix of housing types; and regulatory processes that make infill competitive with conventional development.

Specifics of the Models and Guidelines for Infill Development are clear and straightforward, delineating permitted uses and development standards in simple language. Smart Growth techniques are built in. For example, the code states:

“commercial/employment uses may be mixed vertically or horizontally with residential” and

“site plans shall enhance compatibility with the surrounding community [through] sidewalks that connect to adjacent sidewalk systems...preservation of architecturally significant structures...inclusion of, or relationship to, civic spaces; street furniture, lighting and landscaping that is primarily oriented to pedestrian use....”

The ordinance features photographs, site drawings, line drawing, case examples, and suggests several development review techniques such as a “Smart Scorecard” or a “Smart Growth Criteria Matrix” that local jurisdictions can use to review, grade and select projects from a Smart Growth perspective.

(For more information, go to <http://www.mdp.state.md.us/planning>)

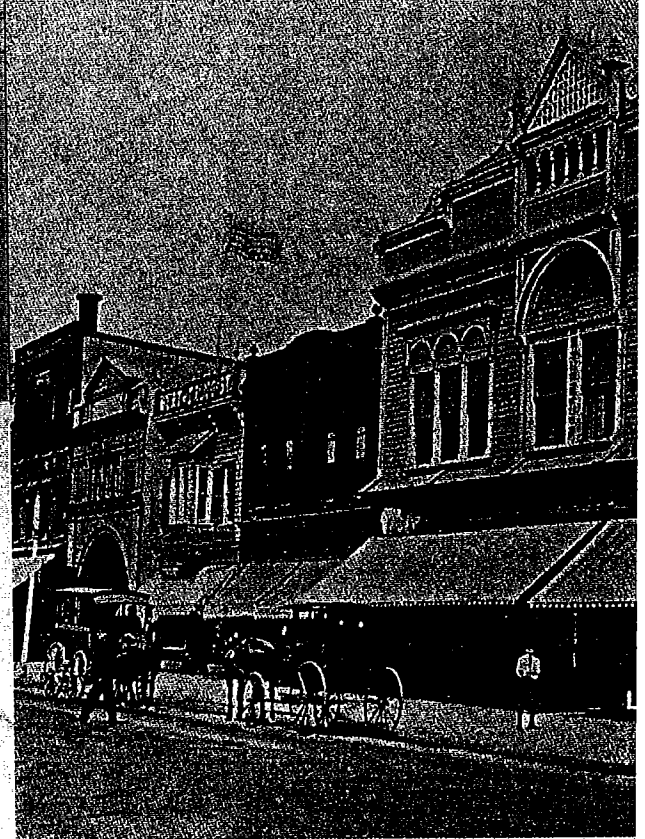
Successful design guidelines are developed through open, participatory processes which include representation from all pertinent stakeholders — local officials, residents, property owners, developers, merchants, interest group representatives and others. Successful design guidelines achieve a balance between the diverse and often competing interests of a community's many users and stakeholders. They promote the interest of the community as a whole and optimize community objectives, rather than maximize any one of them.

A variety of visioning techniques, such as public workshops, slide or other visual presentations, computer imaging, visual preference surveys, and others are available to provide the procedural and substantive framework for developing the guidelines and help the public visualize and better understand the practical implications of what are often highly technical provisions.

Meaningful public participation in planning and design activities is a prerequisite to successful implementation. However, public hearings are often dull, tedious and contentious. Planning and design events should not be viewed as a chore. To attract the public, these events must be well-publicized, festive and dynamic. A suitable venue, the generous use of visualization materials, and plain language presentations combined, where appropriate, with food and music make public participation effective and fun, a celebration of a community's vision for the future.



Design Guide
Brook





PROCEDURAL TOOLS

BALANCING FLEXIBILITY AND PREDICTABILITY

Better physical planning requires a procedural framework which draws a balance between predictability and flexibility, that is to say it contains enough detail to provide certainty of a desirable outcome for the municipality, while providing enough flexibility for the developer to respond to changes in the marketplace and take advantage of unexpected opportunities.

In New Jersey, flexibility in the land development process is significantly increased for projects qualifying as Planned Developments. The M.L.U.L. identifies four types of planned developments: Planned Commercial Developments (PCD), Planned Industrial Developments (PID), Planned Unit Development (PUD) and Planned Unit Residential Development (PURD).

Planned Developments are mixed-use developments. For example, a Planned Unit Development (PUD) is defined as:

“an area with a specified minimum contiguous acreage of 10 acres or more to be developed as a single entity according to a plan, containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified in the zoning ordinance.”

Planned Commercial Developments include commercial and office uses, but also residential; while Planned Unit Residential Developments may include commercial, public and quasi-public, in addition to the residential.

Planned developments can also be quite small — 10 acres for a PUD, 5 acres for a PURD while the minimum acreage for PCD and PID is defined by local ordinance. Minimum acreages for planned developments need not be contiguous.

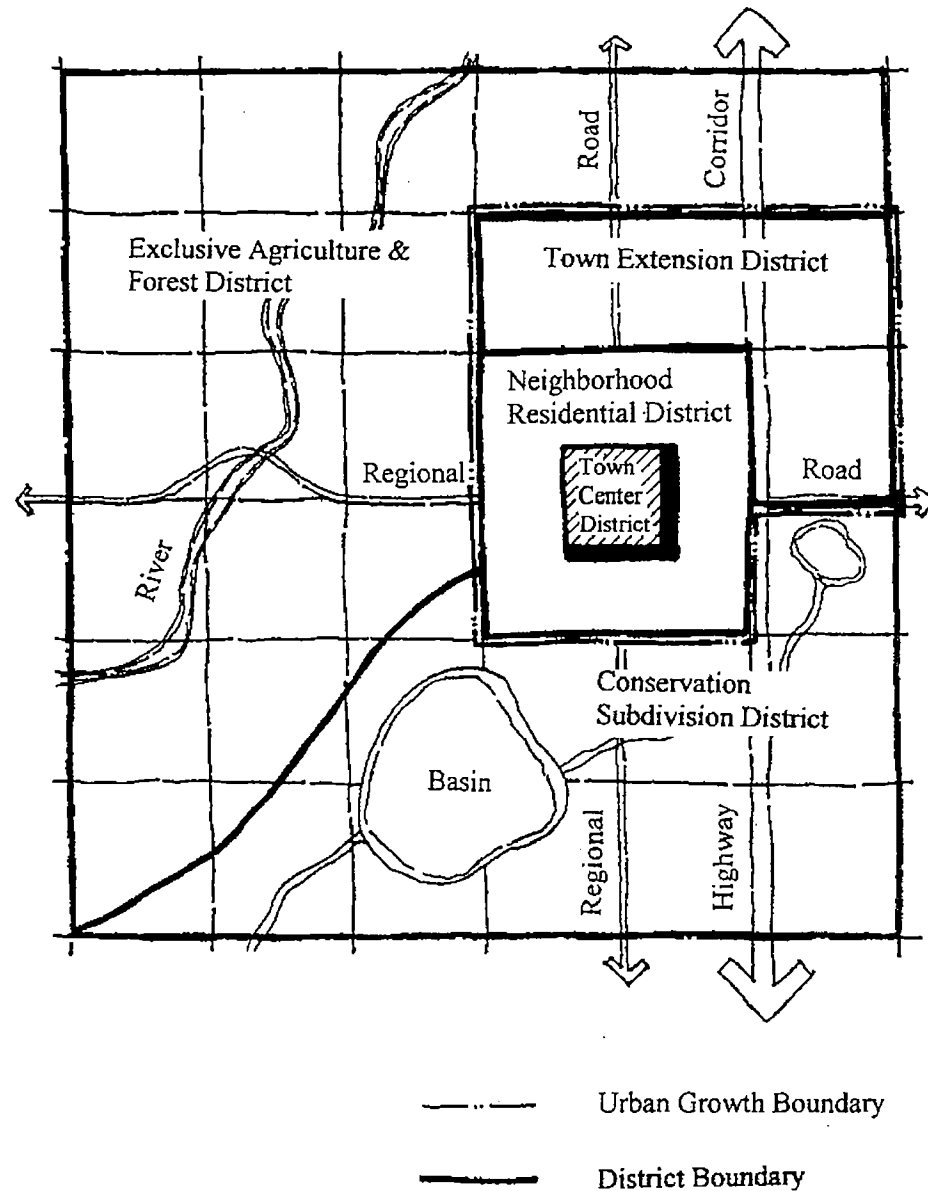
The mixed-use nature of planned developments and the low land area thresholds required under the statute combine to provide a tool with greater flexibility than conventional single-use zoning designations.

To facilitate the submission, review and approval of larger planned developments (over 100 acres), the M.L.U.L.'s General Development Plan (*N.J.S.A. 40:55D-45.1-8*) provisions allow a municipality and a developer to define the key development parameters for an application and a conceptual layout prior to site plan review. These provisions establish a more flexible framework for municipalities and developers to work together, by allowing — through the phasing system — a developer to avoid the up-front submission of final engineering plans and subdivision plats for the entire project. Instead, a developer need only submit the subdivision plat and engineering plans for the phase for which approval is being sought.

TC Town Center District

The traditional town or village center is a compact central area where the pedestrian function and interaction of people and businesses should be fostered and maintained. The purpose of this district is to recognize the existing center, strengthen it, and allow it to intensify and expand where appropriate. Note that the standards for compatibility with existing buildings may also be appropriate in areas in or around historic districts. See also the publication "Good for Business" in the list of resources.

The Town Center District language is adapted from a model ordinance from the Lancaster County Planning Commission. *The Livable Communities Handbook*. 1994. The model ordinance was originally developed by Kise, Franks and Straw, Inc., Philadelphia.



XX.010 Purpose.

The purposes of the TC District are:

- A. To recognize and affirm the function of the existing traditional town/village center as the central focus of commercial and civic activities within the community.
- B. To allow the existing town/village center to flourish, intensify and expand where appropriate in a manner consistent with its traditional character.
- C. To provide a local retail, service and civic center for the community.

Chapter XX.020 shows permitted uses. The list of permitted uses is not exhaustive but represents small-scale retail and civic town center uses. A size cap may be appropriate. Similar uses not listed can be permitted as Conditional Uses.

Section C. includes home occupations as a permitted use. Most cities have existing standards and definitions for home occupations.

Section M. identifies a threshold size for retail stores and shops. Retail size limitations should be guided by the existing size of retail businesses. The primary point of guidance is to ensure that the downtown areas has diversity; no one business or development project should dominate the center.

The conditional uses noted in XX.040 represents a sample of land uses that may need the greater degree of scrutiny afforded by a Conditional Use process. Communities can develop specific standards for particular conditional land uses as necessary.

XX.020 Permitted uses

The following are permitted uses in the Town Center District:

- A. Bed-and-breakfast establishments
- B. Day care centers
- C. Customary home occupations
- D. Libraries, museums and galleries
- E. Municipal buildings and related uses
- F. Music, dance or exercise studios
- G. Offices, including professional and medical offices
- H. Parks, playgrounds, trails, greenways, outdoor recreational facilities and natural areas
- I. Passenger depots and transit shelters
- J. Places of worship, churches and related uses
- K. Public and private schools and other educational facilities
- L. Restaurants, cafes and coffee shops (bars, taverns optional), not including drive-through or franchise architecture.
- M. Retail stores and shops, with a building footprint not exceeding 10,000 square feet
- N. Service businesses such as barber, air, dry cleaning or similar business
- O. Studios and shops of artists and artisans

- P. Residential units located on upper floors above commercial uses or to the rear of storefronts.
- Q. Multifamily residential buildings

XX.030 Accessory uses.

The following are permitted accessory uses in the Town Center District:

- A. Commercial or business buildings and structures for a use accessory to the principal use but shall not exceed thirty percent of the gross floor area of the principal use;
- B. Off-street parking as regulated by Chapter ____ of this Ordinance but not including semi-trailer trucks;
- C. Off-street loading as regulated by Chapter ____ of this Ordinance;
- D. Fencing, screening and landscaping as permitted and regulated by Chapter ____ of this Ordinance
- F. Signs as regulated by Chapter ____ of this Ordinance
- G. Essential services.

The design standards discussed in XX.050 are fairly general, relying on terms like compatibility "with traditional buildings" and with the "concept of the town center." Each town has its own architectural character, and it is certainly desirable to develop more specific guidelines, using photos or sketches. A number of Minnesota communities have created design guidelines based on the existing scale of businesses and historic building design.

The community may wish to establish a threshold for applicability, so that minor repairs would be exempt.

The design standards discussed in XX.050 require that the community designate staff or a community review board to evaluate designs. Design review can be carried out by the Planning Commission or by a separate Architectural Review Board. In either case, it is desirable to have one or more architects or other design professionals on the board.

XX.040 Conditional uses.

The following uses are permitted as conditional uses subject to demonstrated compliance with Site Design Guidelines and compatibility with surrounding land uses and with the purpose of the Town Center District.

- A. Open and outdoor storage, sales, service and rental as an accessory use;
- B. Other commercial, civic or entertainment uses considered similar in character and intensity to permitted uses.

XX.050 Design Standards.

All structures in this zoning district must meet the following minimum structural and architectural design standards. The standards apply to new buildings and to remodelings or expansions of existing buildings.

- A. Architectural Features and Details. Exterior facades, including eaves,

Requirements for the applicant may include submission of architectural renderings and color/material samples.

- columns, pilasters, cornices, windows and window surrounds, canopies, fascia and roofs, shall be proportionate with the building and compatible with surrounding traditional buildings. The scale of new construction, including the arrangement of windows, doors and other openings within the building facade, shall be compatible with surrounding traditional buildings.
- B. Permitted Materials. New buildings erected within the TC Town Center District shall be of masonry construction, an equivalent, or better. Exterior surfaces of all buildings shall be faced with face brick, stone, glass, architectural concrete or precast concrete units, provided that surfaces are molded, serrated examples or treated with a textured material in order to give the wall surface a three-dimensional character. Decorative block may be acceptable if incorporated in a building design that is compatible with other development throughout the district.
 - C. Colors. Colors used for exterior surfaces shall be harmonious with surrounding development and shall visually reflect the traditional concept of the town center. Examples of incompatible colors include metallics, neons, and/or primary colors, which shall be limited to accents. Masonry walls shall not be painted; color shall be integral to the masonry materials.
 - D. Prohibited Materials. No buildings shall be constructed of sheet aluminum, asbestos, iron, steel, corrugated metal, plastic or fiberglass siding. Face materials which rapidly deteriorate or become unsightly such as galvanized metal or unfinished structural clay tile are not permitted.
 - E. Mechanical Equipment and Utilities. All mechanical equipment such as furnaces, air conditioners, elevators, transformers, and utility equipment, whether on roof or mounted on the ground shall be completely screened from contiguous properties and adjacent streets to be compatible with the architectural treatment of the principal structure.
 - F. Accessory Structures. All accessory structures, screen walls, and exposed areas of retaining walls shall be of a similar type, quality, and appearance as the principal structure.
 - G. Loading and Service Areas. Loading and service areas must be completely screened, except at access points, from the ground level view from contiguous property and adjacent streets.

Section XX.060 sets area and bulk thresholds for this district. Maximum standards -- build-to and build-up lines -- as well as minimum ones are used to ensure new buildings are compatible with an existing village or town center character.

Section A. sets minimum and maximum standards. Some ordinances do not require a minimum lot size, allowing existing lot sizes to set the standard. The maximum is intended to discourage out-of-scale buildings, although they can be integrated under a conditional use or special permit process.

Chapter XX.070 sets the TC district parking requirements. Preferably, a TC district should include central, common parking facilities which, in combination with on-street parking, should be enough to serve the district. Where off-street parking is needed, requirements should be flexible to encourage shared and off-site parking, all of which promote pedestrian activity and help to create vital downtowns.

This ordinance provides alternate Sections A. and B. for required parking (Chapter XX.070). The alternate language incorporates an off-street parking requirement.

- H. Outdoor Storage. There shall be no outdoor storage of either materials or products except through the issuance of a conditional use permit.
- I. Trash Handling and Recycling. All trash handling and related equipment, and all areas for holding materials for recycling, shall be completely enclosed and screened to be compatible with the architectural treatment of the principal structure.

XX.060 Area and bulk regulations.

- A. Lot area: minimum of 2,500 square feet and a maximum of 25,000 square feet
- B. Lot width at front yard setback line: minimum of 25 feet and a maximum of 80 feet
- C. Minimum lot depth: 100 feet
- D. Yard dimensions:
 - 1. Build-to line: zero feet, may be increased to 15 feet if additional space is landscaped as a garden or outdoor seating or dining area. Entries may be recessed up to 10 feet.
 - 2. Side yard (each side): minimum of zero feet if attached to an adjacent building, or a minimum of five feet if not attached to an adjacent building; maximum of 20 feet
 - 3. Rear yard: minimum of 55 feet (one row of parking)
- E. Build-up line: Two stories, first finished floor level must be level with sidewalk grade.
 - 1. Maximum building height: 45 feet
- F. Maximum floor area ratio: 3

XX.070 Required parking.

- A. On-street parking, either diagonal (angled) or parallel) shall be provided along all public streets.
- B. Plans for off-street parking and loading facilities within the Town Center District shall be reviewed by the Planning Commission. **In general, no off-**

street parking shall be required for any permitted use within the district. However, the Planning Commission may require such off-street parking and loading spaces as deemed appropriate for the proposed use. Upon review, the Planning Commission shall make a recommendation to the City Council for final review and approval.

- A. The Planning Commission may recommend and the City Council may require a contribution toward community parking facilities in lieu of off-street parking facilities.
- B. Required off-street parking shall not be located within any front yard setback or in front of the principal building. Parking areas shall be landscaped in accordance with Section XX.xx

Additional information for the **REGULATORY FRAMEWORK** segment of the Training Manual was taken from

Principles of Human-Scale Communities (pp 1-13 to 1-22) in the publication

New Urbanism:

Comprehensive Report & Best Practices Guide

By Robert Steuteville, Philip Langdon and special contributors